

HOUSE BILL 3358

By Fincher

AN ACT to amend Tennessee Code Annotated, Title 50,
Chapter 6, relative to workers' compensation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-206(a)(1), shall be amended by deleting the subdivision in its entirety and substituting instead the following:

(a)

(1)

(A) The interested parties shall have the right to settle all matters of compensation between themselves, but all settlements, before the settlements are binding on either party, shall be reduced to writing and shall be approved by the judge of the circuit court or chancery court of the county where the claim for compensation is entitled to be made or by the commissioner or the commissioner's designee as provided in subsection (c).

(B) The following shall apply to any proposed settlement agreement that is presented to any judge for approval under this chapter:

(i) The parties shall not be permitted to submit a settlement agreement for approval to any court that is not a court of competent jurisdiction as provided in § 50-6-225 and the parties shall not be permitted to waive personal jurisdiction for the purposes of obtaining approval of a proposed settlement under this chapter;

(ii) The employee shall be required to be present at the time any proposed settlement agreement is submitted to a court for approval and no judge of a court of competent jurisdiction under this chapter shall approve a proposed settlement agreement between the parties unless the employee is personally present at the time the proposed settlement agreement is submitted to the judge for approval; provided, however, if the judge determines from review of an affidavit executed by the employee that the physical presence of the employee is not possible due to military service or if the judge determines from a review of an affidavit from a medical doctor that the employee is suffering a debilitating illness and cannot physically be present at the time the proposed settlement agreement is submitted to the judge, then the employee shall participate in the approval process via telephone and the court's order shall include a finding that the physical presence of the employee was not possible;

(iii) It shall be the duty of the judge of the circuit court or chancery court, or a judge sitting by interchange, to whom any proposed settlement agreement is presented for approval under this chapter, to examine the proposed settlement to determine whether the employee is receiving, substantially, the benefits provided by this chapter. To this end, the judge may call and examine witnesses and the judge shall not approve any proposed settlement agreement without having communicated with the employee in person or by telephone;

(iv) Upon approval of the settlement agreement by the judge, an order of judgment shall be rendered on the settlement by the court and duly entered by the clerk;

(v) The cost of the proceeding shall be borne by the employer. Certified copies of all papers, orders, judgments and decrees filed or entered by the court upon the approval of such settlement, together with a copy of the settlement agreement, shall be forwarded to the division of workers' compensation by the employer within ten (10) days after the entry of the judgment; and

(vi) If it appears that any settlement approved by the court does not secure to the employee in a substantial manner the benefits of this chapter, the settlement may, in the discretion of the trial judge, be set aside at any time within thirty (30) days after the receipt of the papers by the division, upon the application of the employee or the administrator of the division in the employee's behalf, whether the court has adjourned in the meantime or not, notwithstanding § 50-6-230 to the contrary.

(C) In all cases where the settlement proceedings or any other court proceedings for workers' compensation under this chapter involve a subsequent injury wherein the employee would be entitled to receive or is claiming compensation from the second injury fund provided for in § 50-6-208, the administrator shall be made a party defendant to the proceedings in an action filed by either the employer or the injured employee and an attorney representing the department under the supervision of the attorney general and reporter shall represent the

administrator in the proceeding. The court, by its decree, shall determine the right of the claimant to receive compensation from the fund, and the clerk of the court shall furnish to the administrator a certified copy of the decree, the cost of which shall be added to the costs of the proceedings and shall be paid as other costs are adjudged in the case.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.